

## REMARKS

### *Summary of Telephone Interview*

Applicants acknowledge with appreciation the telephone interview held with Examiner McAllister on November 9, 2004. During the interview, the Examiner indicated that an amendment to more particularly point out that the components of the apparatus claims operate in connection with computer-readable instructions would overcome the Suzuki reference. Although agreement was not reached with respect to the other references, the Examiner and the undersigned discussed differences between Applicants' invention and the teachings of the cited references.

### *Status of the Application*

Claims 1-15 are pending and stand rejected. Claims 2, 8 and 13-14 have been canceled. Claims 1, 7 and 12 have been amended to more particularly recite the features of the claimed invention and find support in the application as originally filed at, for example, p. 8, ll. 16-24; p. 9, ll. 6-8; Fig. 3; and canceled claims 2, 8 and 13-14. Accordingly, upon entry of the present amendment claims 1, 3-7, 9-12 and 15 will be pending in the present application. Applicants thus maintain the patentability of claims 1, 3-7, 9-12 and 15. No new matter has been added by this reply.

### *Anticipation Rejection – 35 U.S.C. § 102(e)*

Claims 12-15 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by or, in the alternative, as allegedly being unpatentable over U.S. Pat. No. 6,470,323 (Suzuki). Claims 13-14 have been canceled. Applicants respectfully traverse the rejection because Suzuki fails to disclose, teach or suggest every feature of claims 12 and 15, namely, as represented by claim 12:

A server computer for processing an electronic request to purchase goods or services from a shopper, the server comprising:

a communications interface connected to a communications network for establishing a communications link between the server and a host client computer;  
a processing engine in communication with the communications interface, *wherein the processing engine has a microprocessor for executing computer-readable instructions*  
...  
for providing the shopper with delivery information;  
for recognizing the occurrence of a triggering event that affects the *performance of the delivery*;  
for notifying the shopper that the triggering event has occurred via the at least one communication pathway if the shopper has selected the notification option and supplied the notification information; and  
*for notifying the shopper of a changed delivery date*; and  
a data storage facility in communication with the processing engine for storing data representing the notification information and a shopper profile associated with the shopper and containing the electronic request and the notification information associated with the shopper. (Emphasis added).

Applicants first note that claim 12 has been amended to reflect the Examiner's request, as discussed in the November 9, 2004 telephone interview, that claim 12 be amended to more clearly recite structural limitations. Thus, for purposes of expediting prosecution, claim 12 now recites that the claimed server comprises a processing engine having "*a microprocessor for executing computer-readable instructions.*" Although Applicants believe that claim 12 is not anticipated by Suzuki for at least this reason alone, for the sake of completeness Applicants reiterate their arguments in support of withdrawal of the rejection of pending claims 12 and 15.

Applicants respectfully traverse the rejection because Suzuki fails to disclose, teach or suggest "recognizing the occurrence of a triggering event that affects the *performance of the delivery*" or "*notifying the shopper of a changed delivery date*" as claimed. The claimed invention is directed to an electronic method for enabling a shopper to purchase a good or service from a seller. To perform the transaction, the shopper is presented with an electronic purchase order having a notification option (*see application, as filed, at p. 5, l. 21 – p. 6, l. 24.*) If the shopper selects the option, the shopper is able to supply notification information that relates to a communication pathway for communicating with the shopper, which is stored in a shopper profile. Once the transaction has been completed (*e.g., the good and/or service is*

selected and payment arranged), the shopper is provided with delivery information. At some point, the occurrence of a triggering event that affects the *performance of the delivery* is detected (application, as filed, at p. 6, l. 30 – p. 7, l. 2.) If the shopper had selected the notification option and supplied the notification information, the shopper is notified of the occurrence of the triggering event and of a *changed delivery date* (application, as filed, at p. 7, ll. 21-25).

In contrast, Suzuki discloses a goods sales management system in which a goods sales management apparatus 1 is coupled to plural customer processors 31 and 32 (col. 2, ll. 37-51). The goods sales management apparatus “conventionally” receives a goods request from one or more of the customer processors (col. 4, ll. 53-59). As discussed with the Examiner during the November 9, 2004 telephone interview, Suzuki teaches that when the inventory of requested goods is zero, the “*order cannot be filled or satisfied.*” (col. 3, ll. 21-23; emphasis added). The conditions or specifications describing goods that are not currently available are stored in a retrieval history memory (col. 5, ll. 16-18).

At some point in the future, goods corresponding to the characteristics of the *unfilled* order arrives (col. 5, ll. 34-37). When this happens, a merchandising notice sending process may send a message to the relevant customer processor (col. 5, ll. 52-62). The system may also send a notice whenever the newly arrived goods only partially match a previously unsatisfied request (*id.*). In such a manner, Suzuki attempts to overcome the shortcomings of the described prior art that “fails to notify customers that previously ordered goods, that were out of stock at the time of the previous order, have arrived and *are available for ordering*” (col. 1, ll. 28-31; emphasis added).

Furthermore, Applicants respectfully submit that Suzuki fails to disclose “recognizing the occurrence of a triggering event *that affects the performance of [a] delivery*” and “notifying the shopper *of a changed delivery date*” as claimed. For example, Suzuki discloses sending a notice when goods arrive that completely or partially match a previous *unsatisfied request* (*i.e.*, an incomplete transaction), rather than notifying a customer of an event that affects the performance of a *delivery* (*i.e.*, the result of a completed transaction). At no point does Suzuki appear to disclose providing a notification option, or the sending of a message, based on a triggering event that affects the performance of a *delivery*. Because Suzuki fails to

disclose every limitation of claim 12, Applicants respectfully submit that claim 12, as well as pending dependent claim 15, are not anticipated by Suzuki.

It would also not be obvious to modify Suzuki to recognize the occurrence of a triggering event that affects the performance of a delivery, or to notify the customer of a changed delivery date. Suzuki merely discloses transmitting a message to a customer to notify him or her that a previously unavailable item is *now available for purchase*. Applicants respectfully submit that it would not be obvious to modify Suzuki to either recognize the occurrence of a triggering event that affects the performance of a delivery, or to notify the customer of a changed delivery date. This is because in Suzuki *nothing is scheduled to be delivered when the notification is sent* – the item was not available when the original order took place *and was therefore not ordered*. The notice in Suzuki serves to notify a customer that *a previously unavailable and unordered item is now available* and ready to be purchased. This teaches away from notifying a shopper that the *delivery of a previously ordered item* has been affected by an event, and relaying *a changed delivery date* for such an item.

Therefore, Applicants respectfully submit that pending claims 12 and 15 are not anticipated by, and patentably define over, Suzuki. Accordingly, withdrawal of the rejection of pending claims 12 and 15 under 35 U.S.C. §§ 102(e) and/or 103(a) is respectfully requested.

***Obviousness Rejection - 35 U.S.C. § 103(a)***

Claims 1-3, 6-9 and 12-15 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Published App. No. 2003/0149640 (Fisher) in view of U.S. Pat. No. 5,578,014 (Murcko). Claims 2, 8 and 13-14 have been canceled. Claims 1, 7 and 12 have been amended. Applicants respectfully submit that pending claims 1, 3, 6-7, 9, 12 and 15 patentably define over Fisher and Murcko, either alone or in combination, because claims 1, 3, 6-7, 9, 12 and 15 recite features that are neither taught nor suggested by the cited references, namely, as represented by claim 1:

A method for processing an electronic request to purchase goods or services, the method comprising:

*providing to a shopper, via a communications network, an electronic purchase order having an opportunity to select a notification option and provide electronic purchasing information;*

receiving from the shopper, via the communications network, the electronic purchasing information that contains an electronic request to purchase goods or services and optionally supplied notification information, the notification information representative of at least one communication pathway for communicating with the shopper;

*creating a shopper profile associated with the shopper, the shopper profile containing the electronic request and the optionally supplied notification information;*

providing the shopper with delivery information;

*recognizing the occurrence of a triggering event that affects the performance of the delivery;*

*accessing the notification information in the shopper profile;*

if the shopper has selected the notification option and supplied the notification information, notifying the shopper that the triggering event has occurred via the at least one communication pathway; and

notifying the shopper of a changed delivery date. (Emphasis added).

During the ordering process, the claimed invention provides a shopper with an “electronic purchase order having an opportunity to select a notification option and provide electronic purchasing information.” Upon receiving such information, the claimed invention “[creates] a shopper profile associated with the shopper, the shopper profile containing the electronic request and the optionally supplied notification information,” and, upon “recognizing the occurrence of a triggering event that affects the performance of [a] delivery,” “[accesses] the notification information in the shopper profile.” Applicants respectfully submit that all of these features are neither taught nor suggested by Fisher and Murcko, taken alone or in combination.

Fisher discloses a method for disclosing the status of an order to a customer by way of a customer’s network address. As acknowledged by the Examiner in the September 30, 2004 Official Action, Fisher fails to teach “*providing to a shopper, via a communications network, ... an opportunity to select a notification option*” as claimed. (Claim 1). As presently amended, claim 1 also recites that an “electronic purchase order” is presented to a shopper. Applicants respectfully note that Fisher teaches a status update system and does not address the ordering process in detail. Thus, Applicants submit that Fisher therefore fails to teach

*“providing to a shopper, via a communications network, an electronic purchase order having an opportunity to select a notification option and provide electronic purchasing information”* as claimed.

Furthermore, Applicants respectfully submit that Fisher also fails to teach *“creating a shopper profile associated with the shopper, the shopper profile containing the electronic request and the optionally supplied notification information”* and *“accessing the notification information in the shopper profile”* as claimed. Fisher fails to teach a shopper profile – in fact, Fisher declares a shopper profile’s undesirability when it states “[t]here is a need in the art, therefore, for a system and method for automatically notifying a party of the status of a delivery *without requiring submission of a status request or special profile information from the party*” (para. 0010; emphasis added). Instead, Fisher automatically addresses a status update to a customer’s network (*i.e.*, email) address, as received during the ordering process (paras. 0011, 0021). Fisher only discusses the transmission of email status updates. In contrast, the claimed “notification information” contained in the shopper profile is “representative of at least one communication pathway for communicating with the shopper,” and may include communications media other than email (claim 1; application, as filed, p. 6, ll. 4-9). Accordingly, Fisher fails to teach or suggest the above-noted features of claim 1.

Applicants respectfully submit that Murcko fails to cure the deficiencies of Fisher. Namely, Murcko also fails to disclose a shopper profile and an electronic purchase order as claimed. Murcko discloses a method for enabling “post-transaction pricing,” where a buyer may decide on the price he or she wishes to pay for an item *after* the buyer has received that item (*see* Abstract; col. 3, ll. 42-57). The system includes a database that contains participant and transaction information, and buyers and sellers communicate by way of an electronic network and system operator (col. 4, ll. 5-14). A seller who wishes to sell an item accesses the system operator located at a remote server and identifies potential buyers. The seller then transmits information pertaining to the item to the potential buyer. If the buyer selects the item, and the seller consents, *the item is sent to the purchaser* (*see, e.g.*, col. 22, ll. 42-49). The purchaser then accepts or rejects the item, determines the value of the item, and remits a price to the seller (col. 22, l. 50 – col. 23, l. 16). Databases 500, 600 and 1000 track the payment history of purchasers and the prices typically obtained by sellers, so other parties

can determine whether they desire to conduct business with the buyer and/or seller in the future (col. 3, l. 65 – col. 4, l. 3; col. 16, l. 32 – col. 18, l. 13). The process of completing a transaction takes place by way of participant interaction with a web site or by sending and receiving email. Furthermore, participants in Murcko have the option to be notified of changes in *the status of the transaction* (col. 12, l. 44 – col. 13, l. 2).

While Murcko discloses a buyer and seller “profile,” the profile of Murcko does not “[contain] the electronic request and the optionally supplied notification information” as claimed. As noted above, Murcko discloses a “post-transaction pricing” scheme where sellers may use the seller’s profile to determine whether to send a good to the seller. As noted in Murcko, “[*b*]efore a transaction can occur between a buyer and a seller, each must join the system (1202 and 1204 respectively) and enter some profile information (1206 and 1208 respectively)” (col. 22, ll. 24-27). Thus, the profile of Murcko does not contain “the electronic request” for goods or services as claimed, because the profile of Murcko must be created *before a transaction can occur*. In contrast, the claimed “shopper profile” is created “after receiving an electronic request and notification information from a shopper” (application, as filed, p. 6, ll. 25-27).

In addition, Murcko teaches that buyer and seller information is stored in the buyer database 700 and seller database 600, respectively, and may be used by the parties *to determine whether they wish to transact with each other*. While the databases 600, 700 may have some notification information contained within (*see* col. 19, ll. 7-9; col. 20, ll. 52-54), such databases 600 and 700 do not contain the electronic request for goods or services, as is the case with the claimed shopper profile. Accordingly, Murcko fails to teach or suggest a “shopper profile associated with the shopper, [which contains] *the electronic request* and the optionally supplied notification information,” as claimed.

As noted above, Murcko describes a “post-transaction pricing” system where a buyer *receives the ordered goods prior to payment*. Therefore, Murcko does not teach or suggest the claimed electronic purchase order, where the completed purchase order may contain “an electronic request to purchase goods and/or services designated by an item number associated with the good or service,” or “other *purchasing information* such as, for example, ... *credit card information and the like*” (application, as filed, p. 5, ll. 14-18). While buyers and sellers

may correspond with each other in the Murcko system, the buyer does not fill out an electronic purchase order as claimed, because in Murcko *the buyer does not pay for the item until after it has been received.*

Accordingly, Applicants respectfully submit that independent claim 1 patentably defines over Fisher and Murcko, either alone or in combination. In addition, because claims 3 and 6 depend on claim 1, Applicants respectfully submit that claims 3 and 6 also patentably define over Fisher and/or Murcko. Likewise, because independent claims 7 and 12 contain similar features to those of claim 1, Applicants respectfully submit that claims 7 and 12, as well as dependent claims 9 and 15, also patentably define over Fisher and/or Murcko. Withdrawal of the rejection of claims 1, 3, 6-7, 9, 12 and 15 under 35 U.S.C. § 103(a) is therefore respectfully requested.

Claims 4, 5, 10 and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Fisher in view of Murcko, and further in view of “Presence: The Best Thing That Ever Happened To Voice” (and “Presence” hereinafter). Applicants respectfully submit that Presence fails to cure the deficiencies of Suzuki and Murcko as set forth above. Presence is directed to various automated methods for communicating with a person using the person’s status, communications capabilities and preferences at any particular moment, but Presence also fails to teach or suggest “providing to a shopper, via a communications network, an electronic purchase order having an opportunity to select a notification option and provide electronic purchasing information,” or “creating a shopper profile associated with the shopper, [which contains] the electronic request and the optionally supplied notification information” as claimed.

Therefore, Applicants respectfully submit that claims 4, 5, 10 and 11 patentably define over Fisher, Murcko and Roberts, either alone or in combination. Accordingly, withdrawal of the rejection of claims 4, 5, 10 and 11 under 35 U.S.C. § 103(a) is respectfully requested.



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PATENT  
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37 CFR § 1.116

### CONCLUSION

For the foregoing reasons, Applicants respectfully submit that all of the claims of the present application patentably define over the prior art of record. Reconsideration of the Office Action and a Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact the undersigned attorney, Christos A. Ioannidi at (215) 564-8994, to discuss resolution of any remaining issues.

Respectfully submitted,

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